

These are the changes to the 2007 Compliance Manual, all changes and additions will be **BOLD**, *Italic*, AND Underlined. If something was taken out of a paragraph then the part, page and copy of the new paragraph is below.

Part 2.1 Responsibilities of the Indiana Housing and Community Development Authority

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D. Conduct File Monitoring and Physical Unit Inspections

IHCDA will perform a file review for each development within two (2) years of the last building being placed in service and at least every three (3) years thereafter.

Page 5

G. Conduct Training

Prior to a request for and issuance of IRS Form 8609 the property management staff assigned to the Development and any owner of a Development that has not received 8609's from our Agency, must receive an IHCDA Rental Housing Tax Credit Compliance Seminar completion certificate.

The Owner must attend Indiana's RHCT Compliance Seminar or other RHCT training at least once every three (3) years thereafter.

Address changed to: Multifamily Housing

Part 3.2 Minimum Set-Aside Requirements and Income Limits

Page 11

A. Minimum Set-Aside Election

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- 3: At least 15% of available rental units in the Development must be rented to Households with incomes not exceeding 40% of Area Median Income adjusted for family size and gross rent for each low-income unit does not exceed 50% of the average gross rent for non low-income units (market units) of comparable size in the development.

Part 3.3 Maximum Gross Rent

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B. Allowable Fees and Charges

26 CFR Part 1 and 602 Section 1.42-11 Provision of services

- (a) General rule. The furnishing to tenants of services other than housing (whether or not the services are significant) does not prevent the units occupied by the tenants from qualifying as a residential rental property eligible for credit under section 42. However, any charges to low-income tenants for services that are not optional generally must be included in gross rent for purposes of Section 42(g).
- (b) Services that are optional – (1) General rule. A service is optional if payment for the service is not required as a condition of occupancy.....

(3) Required services – (i) General rule. The cost of services that are required as a condition of occupancy must be included in gross rent even if federal or state law requires that the services be offered to tenants by buildings owners.

Accordingly, redecorating fees, re-certification fees, and any other type of fees (regardless of name or characterization) that are charged to the tenant for services required as a condition of occupancy, may be charged, but must be included in the calculation of gross rent.

Part 3.5 Rules Governing the Eligibility of Particular Residential Units

Page 15

A. Vacant Units

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When a unit that was occupied by a RHTC eligible Household becomes vacant, RHTC is still available and the unit may be counted toward the set-aside so long as reasonable attempts are made to rent the unit. Vacant units being held for eligible Tenants should be identified in the annual Tenant Income and Rent Report submitted to IHCD. Units cannot be left permanently vacant and still satisfy the requirements of the RHTC program. The Owner or manager must be able to document attempts to rent the vacant units to eligible Tenants.

Vacant units, formerly occupied by low-income individuals, may continue to be treated as occupied by a qualified low-income individual for purposes of the set-aside requirement (as well as for determining qualified basis.) However, documented reasonable attempts (i.e. newspaper advertisements, marketing brochures, ect.) must be made to rent the unit and no other units of comparable or smaller size in the development may be rented to non-qualifying individuals until all RHTC units are rented to qualifying Households.

B. Vacant Unit Rule

Vacant units, formerly occupied by low-income individuals, may continue to be treated as occupied by a qualified low-income Household for purposes of the Minimum Set-Aside requirement (as well as for determining qualified basis) provided reasonable attempts were or are being made to rent the unit or the next available unit of comparable or smaller size to tenant having a qualifying income before any units in the development were or will be rented to tenants not having a qualifying income.

Units cannot be left permanently vacant and still satisfy the requirements of the RHTC program. The Owner or manager must be able to document attempts to rent the vacant units to eligible Tenants.

C. 140% Rule/Next Available Unit Rule

Under § 1.42-15(a), a low-income unit in which the aggregate income of the occupants of the unit rises above 140% of the applicable income limitation under § 42(g)(1) is referred to as an “over-income unit.”

Section 1.42-1(c), provides that a unit is not available for purposes of the available unit rule when the unit is no longer available for rent due to contractual arrangements that are binding under local law (for example, a unit is not available if it is subject to a preliminary reservation that is binding on the owner under local law prior to the date a lease is signed or the unit is occupied).

Part 3.6 Rules Governing the Eligibility of Particular Tenants and Uses

Page 17

B. Student Status

Most Households where all of the members are full-time Students are not eligible tenants and units occupied by these Households may not be counted as RHTC units, even if the Household has an income that would qualify under RHTC income limits. The number of credit hours and the definition of full-time is defined by the school the Student attends.

Part 4.2 Tenant Application & Tenant Eligibility Questionnaire

Page 22

F. Deleted: Rental Housing

Part 4.3 Tenant Income Verification

Page 23

B. Methods of Verification

2. Second party Verification & Electronic Verification

The Owner must be able to reasonably project expected income for the next twelve months from the second party Verification. For example, if third party verification of employment income is impossible and efforts to obtain the third party verification have been made and delayed two weeks, the Owner may obtain the six (6) most current consecutive pay stubs from the Tenant. The Owner must place copies of the second party Verifications and the efforts to obtain a third party Verification in the tenant's file.

3. Verbal Verification

When written Verification is not possible prior to move-in, direct contact with the source will be acceptable to IHCD only as a last resort and should be followed by written Verification. The conversation should be documented in the applicant's Tenant File to include all information that would be contained in a written Verification. The information must include the name, title, and phone number of the contact, the name of the on-site management representative accepting the information, and the date the information was obtained.

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F. Computing the Total Household Income

After all income and asset information has been obtained and computed for a Household, all qualified sources of income are added together to derive the total Household income. In order for the Household to qualify for a RHTC unit, the total Household income must be at or below the maximum allowable qualifying income in effect at the time of Tenant certification. If the total Household income is greater than the maximum allowable qualifying income, the Household cannot be certified for a RHTC unit.

Part 4.7 Lease and Rent Requirements

Page 30

A. Lease Requirements

2. A description of the unit to be rented; must include unit/bedroom size; and set aside percentage as well as unit address;
6. The Utility allowance requirements; and monthly allowance being provided;

Change #6 to #7, #7 to #8 and #8 to #9

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E. EVICTION OR TERMINATION OF TENANCY

IRS Section 42 regulations state that there must be just cause for Eviction or Termination of Tenancy (non-renewal of lease). Language outlining what actions constitute just cause for Eviction or Termination of Tenancy must be included in writing at the time of initial occupancy, preferably in the lease. The Authority will expect to see documentation in the file when a tenant is evicted or a lease is terminated, outlining the specific cause. See Appendix A (8) Rev. Proc. 2005-37 – Safe Harbor

Part 5.4 Initial Information

Page 34

The first year Credit's are claimed the Owner must submit to IHCD:

Part 5.5 Annual Owner Certification of Continuing Compliance

Page 34

The Development Owner must annually certify to the Authority, on or before January 31 of each year (the "Owner Certification of Compliance") for the preceding twelve (12) month period. The Owner must certify:

Deleted: 15/40 test from paragraph 1.

3. The Owner has received an Annual Income Certification form for each low-income Tenant in the Development and sufficient documentation to support that certification;

Or

In the case of a Tenant receiving Section 8 housing assistance payments, the 50058 or 50059 from the applicable public housing authority to the Development Owner showing that the Tenant's income does not exceed the applicable Income Limits under the Code have been received.

Part 5.5 Annual Owner Certification of Continuing Compliance

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19. The Owner has attended an IHCD RHTC Compliance Seminar during the preceding calendar year.

Part 5.6 IHCD Tenant/Unit File Review and On-site Development Inspections

Page 36

IHCD is required to monitor and physically inspect each Section 42 property within two (2) years of the placed in service date and every three (3) years thereafter. However, IHCD reserves the right to inspect the files and/or physical units of a Section 42 property at any time at its discretion.

A. When performing an on-site (at the Development or management office) review, IHCDA will:

3. Removed - This notice will be provided by certified mail.

See Appendix E for Sample Monitoring Forms